

**REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the above amendments and following remarks, which place the application into condition for allowance.

**I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1-12, 14-26 and 28-47 are pending in this application. Claims 5, 7-12, 19, 21-26 and 29-47 have been withdrawn from consideration. Claims 1-4, 6, 14-18, 20 and 28 are rejected in the Final Office Action mailed July 11, 2006. By this Amendment, claims 1-4, 6, 14-18, 20 and 28 have been amended and new claim 48 is added. Support for the amended claims can be found throughout the specification, for example, in paragraphs [0001], [0005], [0006] and [0022]. It is believed that no new subject matter is added as a result of the amended claims.

Initially, the Examiner is thanked for granting Applicants' attorneys an in person interview on November 28, 2006. Participants in the interview included Examiner Piziali, and Applicants' representatives R. Santucci and A. Mustillo. The Final Office Action mailed on July 11, 2006 and cited references U.S. Patent No. 6,033,779 to Andrews ("Andrews") and U.S. Patent No. 5,685,014 to Dapsalmon ("Dapsalmon") were discussed in detail. In addition, possible claim amendments were discussed and the fact that the instant invention is directed to industrial fabrics while both Andrews and Dapsalmon are directed to protective clothing, such as gloves. An agreement with respect to the claims was not reached.

**II. THE REJECTIONS UNDER 35 U.S.C. § 102(b)**

In paragraph 3 of the Office Action, claims 1-4, 6, 14-18, 20 and 28 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Andrews. The rejections are traversed for at least the following reasons.

As presently understood by Applicants' attorneys, Andrews relates to a composite yarn formed of melt-fusible thermoplastic fibers combined with other fibers and/or materials and includes a containment barrier that encapsulates one or more core materials which may present a threat of contamination to workers and/or the environment. The composite yarn includes a core covered by an adhesive layer of thermoplastic material which forms a containment barrier, combined with one or more subsequent overlying layers of fibers wrapped or otherwise applied thereto using conventional yarn construction methods. The cured and finished composite yarn is designed for knitting and weaving fabrics, or for otherwise forming cordage and nonwoven products. The composite yarn is also utilized to produce end products such as cut-resistant apparel for environments where workers are exposed to possibly contaminated products or where core materials in the yarn can damage the end product of manufacture. *See Andrews, col. 1, lines 14-22.*

As recited in revised independent claim 1 and new claim 48, the instant invention is directed to a papermaking fabric multilayer filament where the multilayer filament has a core comprised of a monofilament yarn surrounded by a plurality of respective layers and a means for indicating the level of wear of an industrial fabric comprised thereof and the papermaking fabric constructed from one or more of the multilayer filaments. Because these fabrics have a limited lifespan and require regular replacement, there needs to be a means to indicate the wear level in the fabric, so that the fabric can be replaced in time, avoiding any catastrophic failure and loss, damage or shutting down of the machines. Moreover, because these papermaking fabrics, which are industrial fabrics have a width of from 5 to over 33 feet, a length of from 40 to over 400 feet and weigh from approximately 100 to over 3,000 pounds, replacement of these fabrics often involves taking the machine out of service, removing the worn fabric, setting up to install a fabric and installing the new fabric. And because these fabrics are typically made to order, it is

important to know the condition of the fabric being currently used on the paper machine. In the instant invention, the individual multilayer filament comprises a monofilament yarn core surrounded by a plurality of respective layers. *See Instant Application, ¶ [0024].* The plurality of layers, which can be dyes as recited in the specification, act as level indicators for wear of the papermaking fabric, e.g., a green color used as an outermost coating of the filament will indicate a healthy fabric, and a red color used as an innermost coating of the core filament would call for a replacement.

Applicants' attorneys submit that Andrews fails to teach a papermaking fabric multilayered filament that can indicate the wear level of the papermaking fabric. Specifically, Andrews does not teach the concept of wear level indication for a papermaking fabric and, instead, is directed to the use of a containment barrier on core materials of a yarn for use in protect garments such as cut resistant apparel, which may present a threat of contamination to workers and/or the environment.

Additionally, as recited in revised independent claim 15, another embodiment of the instant invention is directed to “[a]n endless industrial fabric for use in papermaking and related industries comprising one or more multilayer filaments each having a core comprised of a monofilament yarn surrounded by a plurality of respective layers and means for indicating a level of fabric wear.” As discussed above, Andrews is directed to the use of a containment barrier on core materials of a yarn for use in protect garments such as cut resistant apparel, which may present a threat of contamination to workers and/or the environment. Therefore,

Applicants' attorneys respectfully submit that Andrews fails to disclose an endless industrial fabric comprising one or more multilayer filaments for indicating a level of fabric wear as well.

### **III. THE REJECTIONS UNDER 35 U.S.C. § 103(a)**

In paragraph 5 of the Office Action, claims 1-4, 6, 14-18, 20 and 28 are rejected under 35

U.S.C. §103(a) as being allegedly unpatentable over Dapsalmon in view of anyone of U.S. Patent No. 3,800,019 to Parsey et al. (“Parsey”) or U.S. Patent No. 6,653,943 to Lamb et al. (“Lamb”) and further in view of anyone of U.S. Patent No. 4,651,514 to Collett (“Collett”), U.S. Patent No. 5,113,532 to Sutton (“Sutton”), or Andrews. The rejections are traversed for at least the following reasons.

As presently understood by Applicants’ attorneys, Dapsalmon is directed to a knitted piece of protective gear, such as a glove, to protect a person’s limbs against injury. *See Dapsalmon*, col. 1, line 66 - col. 2, line 3. The piece of protective gear is knitted from yarns that “comprise[] a fiber core 3, surrounded by an outer fiber covering 4.” *Id.* at col. 3, lines 46-47. Therefore, Applicant’s attorneys respectfully submit that Dapsalmon fails to disclose or suggest a papermaking fabric multilayer filament having a core comprised of a monofilament yarn surrounded by a plurality of layers for indicating a level of fabric wear or an endless industrial fabric or a papermaking fabric comprised of the wear indicating multilayer filament.

Additionally, as presently understood by Applicants’ attorneys, Parsey, Lamb, Collett and Sutton also fail to disclose or suggest papermaking fabric multilayer filament having a core comprised of a monofilament yarn surrounded by a plurality of layers for indicating a level of fabric wear or an endless industrial fabric or a papermaking fabric comprised of the wear indicating multilayer filament.

It is well established that when a rejection depends on a combination of references, there must be some teaching, suggestion or motivation to combine the references. *See In re Rouffet*, 149 F.3d 1350, 47 USPQ 2d 1453 (Fed.Cir.1998). To prevent the use of hindsight, the examiner is required to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the

elements from the cited prior art references for combination in the manner claimed. *Id* at 1357.

Further, in *Winner Int'l Royalty Corp. v. Wang*, 202 F.3d 1340 (January 27, 2000), *reh 'g en banc denied* (March 6, 2000), *cert. denied*, 120 S. Ct. 2679 (U.S. 2000), it was held that:

“Although a reference need not expressly teach that the disclosure contained therein should be combined with another, the showing of combinability, in whatever form, must nevertheless be ‘clear and particular.’” (emphasis added).

As recited in the claims, the instant invention is directed to papermaking fabric multilayer filaments for indicating a level of wear in the fabric or endless industrial fabrics or papermaking fabrics constructed from the wear level indicating multilayer filaments. Dapsalmon fails to teach or suggest that the disclosed filament is capable of being used as claimed in the instant claims.

None of the cited references, either alone or in combination, correct the deficiencies of Dapsalmon. Accordingly, Applicants' attorneys respectfully submit that the Section 103 rejections must fail as a matter of law.

For at least the foregoing reasons, Applicants' attorneys respectfully submit that amended independent claims 1 and 15 and new claim 48 patentably distinguish over the relied upon portions of Andrews, Dapsalmon, Parsey, Lamb, Collett and Sutton, either alone or in combination, and are therefore allowable. Further, claims 2-4, 6 and 14 that depend from claim 1 and claims 16-18, 20 and 28 that depend from claim 15, are allowable therewith.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicants' undersigned attorney and, in the event that the Examiner disagrees with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

### **CONCLUSION**

In view of the foregoing, it is believed that all of the claims in this application are

U.S. Application No. 10/608,630  
Reply to Final Office Action mailed July 11, 2006

PATENT  
930010-2206

patentable over the prior art, and an early and favorable consideration thereof is solicited.

Accordingly, a Notice of Allowance is earnestly solicited.

Please charge any fees incurred by reason of this response and not paid herewith to  
Deposit Account No. 50-0320.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By: Anthony D. Mustillo  
Ronald R. Santucci  
Reg. No. 28,988

Anthony D. Mustillo  
Reg. No. 58,836

Telephone: (212) 588-0800  
Facsimile: (212) 588-0500